



MEMO ENDORSED

**THE CITY OF NEW YORK
LAW DEPARTMENT**

100 CHURCH STREET
NEW YORK, NY 10007

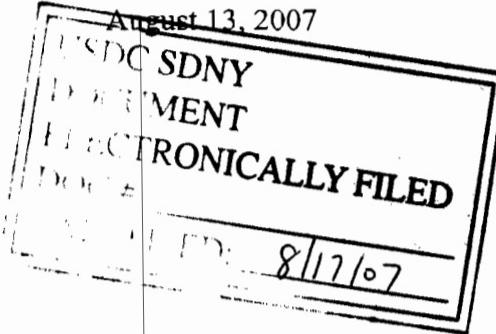
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JAMES MIRRO

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BY FAX

The Honorable Kenneth M. Karas
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street - Room 920
New York, New York 10007-1312



Re: Banno v. The City of New York, et al.
USDC SDNY 06 CV 2270 (KMK) (JCF)

Dear Judge Karas:

In this action, which is one of the consolidated RNC actions, Magistrate Francis has ordered defendants to produce an NYPD undercover officer for deposition without the benefit of either a screen or a disguise to conceal his identity. To preserve the integrity of the NYPD's undercover program, to avoid the loss of this young officer's career in the undercover program, and to ensure the continued personal safety of the officer and his family in the future, defendants have maintained that a screen or other disguise is necessary at the deposition.

The current deadline for defendants to appeal Magistrate Francis' order is Wednesday, August 15, 2007. As Your Honor is aware, defendants are in the process of taking appeals of other orders by Magistrate Francis concerning undercover, intelligence and law enforcement issues in the Schiller and Dinler cases. Your Honor has issued several orders staying the time to appeal those orders so that they may be consolidated and addressed together. In a letter to Your Honor dated August 10, defendants advised the Court that the parties had agreed to a briefing schedule on those consolidated appeals. That proposed schedule calls for defendants to file their appeal by next Friday, August 24, 2007, with the consent of Christopher Dunn of the NYCLU, counsel for plaintiffs in those two actions.

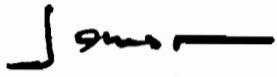
Because the appeal in the Banno action will require a discussion of many of the same legal authorities and the same law enforcement concerns as defendants will discuss in

connection with the other appeals, defendants respectfully submit that all of these appeals should be briefed together. This will permit the parties and the Court to address these closely related issues once rather than in *seriatim*.

Accordingly, defendants respectfully request permission to consolidate the briefing of the Banno appeal with the briefing of the Schiller and Dinler appeals and to permit defendants until Friday, August 24, 2007 to file and serve those appeals. I have called plaintiff's counsel in this action, Jeffrey Fogel, and have left a message for him, but I have not heard back as to whether he will consent to this proposal.

If this meets with the Court's approval, defendants request that the Court "so order" it.

Very truly yours,



James Mirro

cc: Jeffrey Fogel, Esq. (by fax)

The Court will not consolidate the
briefing of this appeal with the Schiller and Dinler
appeals. Accordingly, the City must file its objections
by August 21, 2007; reply by
August 28, 2007;
September 5, 2007.


SO ORDERED
KENNETH M. KARAS U.S.D.J.
8/19/07